

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
Poughkeepsie Division**

**PJH 9510
Tax ID No. 11 3178696**

In re:

Bankr. Case No.: 20-36026-cgm

DAVID G. KOMATZ and
BABSY KOMATZ,

Chapter 7

Debtors.

DAVID G. KOMATZ and
BABSY KOMATZ,

Adv. Proc. No.: 21-09007-cgm

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF EDUCATION,
NAVIENT SOLUTIONS, LLC and
NELNET,

Defendants.

NAVIENT SOLUTIONS, LLC'S ANSWER TO COMPLAINT

Navient Solutions, LLC ("Navient"), by and through its undersigned counsel, hereby provides its Answer to the allegations of Plaintiffs, David G. Komatz and Babsy Komatz ("Plaintiffs"), Complaint ("Complaint"), and states as follows:

Introductory Statement

Private Educational Loans

Navient is a former holder of certain private educational Signature Student Loans, on which the Plaintiff, David G. Komatz was liable ("Navient Loans"). The Navient Loans were discharged by in adversary proceeding no. 16-09027 in this district, by Stipulation (Doc. No. 8) and Order (Doc. No 14). The Plaintiffs owe Navient no debt arising from any private educational loan(s).

Guaranteed Student Loans

Navient is a servicer of certain guaranteed Smart Consolidation Loan(s), made under the Federal Family Education Loan Program (“FFELP”), on which Plaintiff, David G. Komatz is liable (“FFELP Loans”). The FFELP guarantor on Plaintiff’s FFELP Loans is Educational Credit Management Corporation (“ECMC”). The Code of Federal Regulations (“CFR”), 34 CFR 682.402, *et seq*, requires that, upon the filing of a Complaint seeking discharge in bankruptcy, all interests in FFELP loans, such as the Plaintiff’s FFELP Loans, must be transferred to the FFELP guarantor (in this case, ECMC), and the guarantor is responsible for defense of the loans in the adversary proceeding. This transfer process is currently underway. Navient expects that ECMC will seek to intervene as a defendant in this adversary proceeding, to defend the FFELP Loans in this proceeding, once the transfer process is complete. Navient has no authority to litigate the discharge of the Plaintiff’s FFELP Loans.

Navient’s Position and Strategy

The Plaintiffs owe no private educational loan debt to Navient. Navient has no authority to litigate the discharge of Plaintiff’s FFELP Loans. Navient intends to await the intervention of ECMC, to defend the FFELP Loans, and then seek dismissal of itself as a disinterested defendant, by Stipulation if possible, or by Motion if necessary.

Navient’s Answer to the Allegations in Plaintiff’s Complaint

JURISDICTION

1. Admitted.

NATURE OF CLAIM

2. Admitted.

VENUE

3. Admitted.

PARTIES

4. Admitted, except as to Plaintiffs' liability to Nelnet, which is unknown to Navient, and with respect to which, Navient provides no response.

TOTAL OF ALL STUDENT LOANS

5. Navient is without information or knowledge sufficient to form a belief as to the truth of the averments contained within this paragraph of Plaintiff's Complaint, and in an abundance of caution, denies same.

TOTAL OF LOANS TO NAVIENT

6. Denied. It is admitted only that only that Navient is a servicer of certain FFELP Loans, as more fully described in the Introductory Statement, above, and with a balance in an amount approximately as stated in this paragraph of Plaintiff's Complaint.

TOTAL OF LOANS TO NELNET

7. Navient is without information or knowledge sufficient to form a belief as to the truth of the averments contained within this paragraph of Plaintiff's Complaint, and in an abundance of caution, denies same.

FACTUAL ALLEGATIONS COMMON TO ALL DEFENDANTS

8. It is admitted only that only that Navient is a servicer of certain FFELP Loans, as more fully described in the Introductory Statement, above.

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9. – 13. Navient is without information or knowledge sufficient to form a belief as to the truth of the averments contained within these paragraphs of Plaintiff's Complaint, and in an abundance of caution, denies same.

14. It is admitted only that the FFELP Consolidation Loans were disbursed on July 5, 2006. Beyond this admission, Navient is without information or knowledge sufficient to form a belief as to the truth of the averments contained within this paragraph of Plaintiff's Complaint, and in an abundance of caution, denies same.

CAUSE OF ACTION – CLAIM ONE

This paragraph of Plaintiff's Complaint is a request for relief, to which no answer is required, but in an abundance of caution, is denied.

WHEREFORE, Navient Solutions, LLC respectfully requests judgment in its favor and against Plaintiff and such other relief as is just and equitable.

Respectfully submitted,

By: /s/ Paul J. Hooten
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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I am more than 18 years of age and not a party to the matter concerning which service was accomplished. I further certify that on the 15 day of March, 2021, I served by first class United States mail, postage prepaid, a true and correct copy of Navient Solutions, LLC's Answer to Complaint, upon the following persons:

David G. Komatz
Babsy Komatz
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